(21)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

M.A. No. 840 OF 2005

APPELLANTS/CLAIMANTS

1) Godavari Bai Wd/o. Dhaniram Pradhan, Aged about 38 years.
2) Surujbai, W/o. Chhedilal Pradhan, Aged about 60 years.
3) Rajesh Kumar, S/o. Late Dhaniram Pradhan, Aged about 20 years
4) Ku. Ranu, D/o. Late Dhaniram Pradhan, Aged about 15 years, Minor Through : Guardian-Mother Godavari Bai, Wd./o. Dhaniram Pradhan

All are R/o. Deorikurd, Powerhouse Chowk, Bilaspur (C.G.)

Versus

RESPONDENTS/NON-APPLICANTS

1) Mahadev Sahu, S/o. Manbodh Sahu, Aged about 32 years, Occupation : Driver and Owner of the Vehicle, Hindustan Tracker No. MP-26-E/8617, R/o. Sankara, District: Raigarh (C.G.)
2) The Oriental Insurance Company Limited, Sambalpur (Orissa)

Present:

Mr. Saurabh Sharma, learned counsel for the appellants.

Mr. Abhishek Sinha, learned Standing counsel for respondent No.2.

ORAL ORDER
(Passed on 12th of December 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The appellants are dependents of the deceased. They have filed this appeal for more compensation. Learned counsel for the appellant

while seeking for more compensation would contend (i) that though the MACT has held that on the date of the accident, the deceased was aged 40-45 years, instead of applying multiplier 15 it wrongly applied multiplier 14 for assessing loss of dependency, (ii) that the monthly income of the deceased on the date of accident as reflected in Ex.A-10 was Rs. 8,367/-, whereas the MACT has taken his monthly income at Rs. 5,500/- for assessing loss of dependency, which is erroneous and (iii) that the MACT has not taken into account the prospects of deceased earning more income if he were to alive in due course.

2. Since the deceased, even according to the MACT, was aged 40-45 years on the date of accident, the MACT ought to have applied multiplier 15 and not multiplier 14. The MACT has not committed any error in deducting the contribution made by the deceased towards payment of Income Tax, Provident Fund and other dues from the gross income, because they are permissible heads of deductions. Therefore, we do not find any merit in the second contention. However, we find some force in the last contention of the learned counsel that the MACT ought to have taken the prospect of the deceased earning more money, if he were to alive. We say this, because, it has come in the evidence of A.W.-2 that if the deceased were to alive, he would have earned Rs. 600/- more every year. Perhaps, he would have also earned some promotion before his retirement on attaining the age of superannuation. In that view of the matter, we think it just and reasonable to take the net loss of monthly dependency in a sum of Rs. 6,000/-. If we take the monthly loss of dependency in a sum of Rs. 6,000/- and deduct 1/3rd towards personal expenses of the deceased, the actual loss of monthly dependency would

come to Rs. 4,000/-. If we apply multiplier 15, the total loss of dependency would be Rs. 7,20,000/- (4,000 x 12x15).

We are also of the considered opinion that what has been awarded towards loss of consortium to the widow and loss of love and affection to the minor daughter is very much on lower side. Therefore, we award a sum of Rs. 20,000/- to the widow of the deceased towards loss of consortium and another sum of Rs. 20,000/- towards loss of love and affection to the minor female child.

In the result and for the foregoing reasons we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs. 7, 62,000/- under the following heads.:

(i)	loss of dependency	-	Rs. 7,20,000/-
(ii)	loss of consortium	-	Rs. 20,000/-
(iii)	loss of love & affection	-	Rs. 20,000/-
(iv)	funeral expenses	-	Rs. 2,000/-
	Total		Rs. 7,62,000/-

with interest as awarded by the Tribunal. The parties shall bear their respective costs in this appeal.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge